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2 **Entered on Docket**
3 **January 03, 2011**
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11 **HAM**
12 **No. 002838**
13 **Hon. Linda B. Riegle**
14 **United States Bankruptcy Judge**
15 **ROLESAR & LEATHAM, CHTD.**
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18 **UNITED STATES BANKRUPTCY COURT**

19 **DISTRICT OF NEVADA**

20 In re:
21 THE RHODES COMPANIES, LLC, aka
22 "Rhodes Homes," et al.,

23 Reorganized Debtors

Case No.: 09-14814-LBR
(Jointly Administered)

Chapter 11

STIPULATION AND ORDER TO STAY PROCEEDINGS

24 ☒ Affects all Debtors

25 ☐ Affects the following Debtors
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8 James M. Rhodes (“**Rhodes**”), through counsel, Fabian & Clendenin, and the above-
9 captioned reorganized debtors (collectively, the “**Reorganized Debtors**”), through counsel,
10 Kolesar & Leatham, Chtd. and Akin Gump Strauss Hauer & Feld LLP, respectfully submit this
11 Stipulation and Order to Stay Proceedings (the “**Stipulation**”). Rhodes and the Reorganized
12 Debtors are collectively referred to herein as the “Parties.” The Parties stipulate and agree as
13 follows:

14 WHEREAS, on July 17, 2009, Rhodes filed proof of claim No. 814-33 (“**Proof of Claim**
15 **No. 814-33**”) in the amount of \$10,598,000.00 seeking: (i) the reimbursement of taxes in the
16 amount of \$9,729,151.00 (the “**Taxes**”) paid by Rhodes for the 2006 tax year (the “**Tax Claim**”);
17 and (ii) \$868,849.00 advanced to Greenway Partners, LLC (“**Greenway Partners**”) (the
18 “**Greenway Partners Claim**” and, together with the Tax Claim, the “**Claims**”).

19 WHEREAS, on May 27, 2010, the Reorganized Debtors filed an objection (the
20 “**Objection**”) to Proof of Claim No. 814-33 alleging, among other things, that: (i) Rhodes was not
21 entitled to reimbursement of the Taxes; and (ii) the evidence attached to the Proof of Claim No.
22 814-33 did not support allowance of the Claims. Additionally, the Reorganized Debtors indicated
23 that contemporaneously with the filing of their Objection they were amending their schedules and
24 statements (together with the amended schedules and statements, the “**Statements**”) to remove
25 certain scheduled claims (the “**Scheduled Claims**”).
26

1 WHEREAS, on June 17, 2010, Rhodes filed an opposition (the “**Opposition**”) to the
2 Objection arguing, among other things, that: (i) the Claims should be allowed in the amounts set
3 forth in Proof of Claim 814-33; and (ii) the Reorganized Debtors were not entitled to amend the
4 Statements after confirmation of the Third Amended Modified Plan of Reorganization Pursuant to
5 Chapter 11 of the Bankruptcy Code for The Rhodes Companies, LLC, *et al.* (the “**Plan**”).

6 WHEREAS, on or about August 24, 2010, the Court held a status conference during
7 which the Parties agreed, among other things, that this matter should be bifurcated with respect
8 to: (1) Rhodes’ entitlement to the Tax Claim; and (2) discovery, if necessary, to support the
9 amount of the Tax Claim, allowance of the Greenway Claim, and all issues regarding the
10 Scheduled Claims, including the Reorganized Debtors’ ability to amend the Statements after
11 confirmation of the Plan.

12 WHEREAS, on November 4, 2010, the Court held a hearing on the Objection to the Tax
13 Claim.

14 WHEREAS, on November 16, 2010, the Court entered its *Order Sustaining Reorganized*
15 *Debtors’ Objection to James Rhodes’ Entitlement to the Tax Claim Found in Proof of Claim No.*
16 *814-33* (the “**Order**”).

17 WHEREAS, on November 30, 2010, Rhodes filed: (1) *James Rhodes’ Notice of Appeal*
18 *from the Order*; and (2) *James Rhodes’ Statement of Election to Appeal to the United States*
19 *District Court for the District of Nevada* (collectively, the “**Appeal**”) [District Case No. 2:10-cv-
20 02101].

21 WHEREAS, Rhodes and the Reorganized Debtors have been in settlement negotiations
22 and discussions regarding the Appeal and the remaining claims. As a result, in order to focus the
23 Parties attention and resources toward possible settlement, the Parties have agreed to the
24 following as set forth below.

1 **IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned
2 counsel for the Parties, as follows:

3 1. All proceedings, dates, and deadlines in this matter, including all dates and
4 deadlines with respect to the Appeal, are stayed and suspended until February 15, 2011.

5 2. Should settlement fail for any reason, the Parties shall submit a proposed
6 scheduling order on or before February 15, 2011.

7 **IT IS SO ORDERED.**

8 Prepared and respectfully submitted by:

9 **FABIAN & CLENDENIN, P.C.**

**AKIN GUMP STRAUSS HAUER & FELD
LLP**

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CERTIFICATE OF NOTICE

District/off: 0978-2
Case: 09-14814User: lakaswm
Form ID: pdf984Page 1 of 2
Total Noticed: 28

Date Rcvd: Jan 03, 2011

The following entities were noticed by first class mail on Jan 05, 2011.

db +THE RHODES COMPANIES, LLC, 4730 S. FT. APACHE #300, LAS VEGAS, NV 89147-7947
 aty +DON S DEAMICIS, 1 INTERNATIONAL PL, BOSTON, MA 02110-2602
 aty +JAMES I STANG, 10100 SANTA MONICA BLVD #1100, LOS ANGELES, CA 90067-4111
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 LAS VEGAS, NV 89102-3202
 aty +TROY L ISAACSON, 3811 W CHARLESTON BLVD #110, LAS VEGAS, NV 89102-1860
 consult +ACCELERON GROUP, 2791 SOFT HORIZON WAY, LAS VEGAS, NV 89135-1789
 cr +CATERPILLAR FINANCIAL SERVICES CORPORATION, c/o Snell & Wilmer L.L.P.,
 3883 Howard Hughes Parkway, Suite 1100, Las Vegas, NV 89169-0965
 cr +CHARLES BAGLEY, C/O TROY ISAACSON, 3811 WEST CHARLESTON BLVD., SUITE 110,
 LAS VEGAS, NV 89102-1860
 cr +COMMERCE ASSOCIATES, LLC, c/o Janet L. Chubb, Jones Vargas, 100 West Liberty St 12th Flr,
 P.O.Box 281, Reno, NV 89504-0281
 cr +CREDIT SUISSE, CAYMAN ISLANDS BRANCH, c/o SYLVESTER & POLEDNAK, LTD., 7371 PRAIRIE FALCON RD.,
 SUITE 120, LAS VEGAS, NV 89128-0834
 cr +DANA KEPNER COMPANIES, LLC, MARQUIS & AURBACH, ATTN: DAVID A. COLVIN, ESQ.,
 10001 PARK RUN DRIVE, LAS VEGAS, NV 89145-8857
 cr +DORIS LOFTON, C/O TROY ISAACSON, 3811 WEST CHARLESTON BLVD., SUITE 110,
 LAS VEGAS, NV 89102-1860
 cr +JAMES RHODES, c/o BRETT A. AXELROD, ESQ., GREENBERG TRAUIG, LLP, 3773 HOWARD HUGHES PKWY.,
 SUITE 400 NORTH, LAS VEGAS, NV 89169-5956
 cr +JANINA GUTHRIE, 1225 MONTEREY ST., REDLANDS, CA 92373-6618
 cr +JOHN HANCOCK FREEDOM 529, PO BOX 17603, BALTIMORE, MD 21297-1603
 cr +Leslie Blasco, et al., Shinnick, Ryan & Ransavage P.C., 2881 Business Park Ct., Suite 210,
 Las Vegas, NV 89128-9020
 cr +NEVADA POWER COMPANY, LEACH JOHNSON SONG & GURCHOW, 5495 S. RAINBOW BLVD, STE 202,
 ATTN: KIRBY C. GRUCHOW JR., ESQ., LAS VEGAS, NV 89118-1873
 intp +OMNI MANAGEMENT GROUP, 16501 VENTURA BLVD., #440, ENCINO, CA 91436-2068
 cr +PALECEK, PO BOX 225, RICHMOND, CA 94808-0225
 cr +RICKEY LOFTON, C/O TROY ISAACSON, 3811 WEST CHARLESTON BLVD., SUITE 110,
 LAS VEGAS, NV 89102-1860
 cr +Reef Colonial, LLC, Deaner, Deaner, Scann, Malan & Larsen, Paul R. Connaghan, Esq.,
 720 S. Fourth St, Suite 300, Las Vegas, NV 89101-6743
 cr +SAGEBRUSH ENTERPRISES, INC., c/o BRETT AXELROD, ESQ., GREENBERG TAURIG, LLP,
 3773 HOWARD HUGHES PARKWAY, SUITE 400 NORTH, LAS VEGAS, NV 89169-5956
 cr +SHANE SMITH, 7381 W. Charleston, Suite 110, Las Vegas, NV 89117-1571
 intp +STATE OF NEVADA OFFICE OF THE STATE TREASURER, 555 E. WASHINGTON AVE SUITE 4200,
 LAS VEGAS, NV 89101-1070
 cr +THE PRESERVE AT ELKHORN SPRINGS HOMEOWNERS ASSOCIA, C/O FEINBERG GRANT MAYFIELD KANEDA & LIT,
 1955 VILLAGE CENTER CIRCLE, LAS VEGAS, NV 89134-6237
 cr +WENDY BAGLEY, C/O TROY ISAACSON, 3811 WEST CHARLESTON BLVD., SUITE 110,
 LAS VEGAS, NV 89102-1860
 cr +Westar Kitchen & Bath, LLC, c/o Williams & Wiese, 612 South Tenth Street,
 Las Vegas, NV 89101-7001
 cr +X-It at 215, LLC, C/O Damon K. Dias, 601 S. Sixth Street, Las Vegas, NV 89101-6919

The following entities were noticed by electronic transmission.
NONE.

TOTAL: 0

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****

cr CLARK COUNTY
 cr CREDITORS COMMITTEE
 cr HARSCH INVESTMENT PROPERTIES - NEVADA, LLC
 cr In re Kitec Fitting Litigation Class Plaintiffs
 cr Inc. Integrity Masonry
 intp REORGANIZED DEBTORS
 cr STANLEY CONSULTANTS, INC.
 cr STEERING COMMITTEE OF SENIOR SECURED LENDERS
 cr UNITED STATES OF AMERICA - INTERNAL REVENUE SERVIC
 cr US-Yellow
 cr VIRGINIA SPRINGALL-SMITH, 7381 W. CHARLESTON BLVD., SUITE 110, LAS VEGAS
 cr WELLS FARGO BANK, N.A.

TOTALS: 12, * 0, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

District/off: 0978-2
Case: 09-14814

User: lakaswm
Form ID: pdf984

Page 2 of 2
Total Noticed: 28

Date Rcvd: Jan 03, 2011

***** BYPASSED RECIPIENTS (continued) *****

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jan 05, 2011

Signature:

A handwritten signature in black ink, reading "Joseph Speetjens", written over a horizontal line.